SINGLE BENCH

CFRS/07

(3) (6)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

W.P. (C) NO. 1100 /2007

PETITIONER : Kumari Nirusha Agrawal
D/o. Ramesh Chandra Agrawal
Aged about 24 years
Resident of Chopada-para,
Ambikapur,Dist.Sarguja (C.G.)

P.R. No. 1328/07 Presented by Shri Raghvendra Pradhan dated 15-02-2007

Through : Constituted Lawful Attorney Shri Ramesh Chandra Agrawal, Son of Late Tarachand Agrawal, aged about 54 years, resident of Chopada-para, Ambikapur, District Sarguja (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through : Secretary
Department of General Administration, D.K.S. Bhawan, Raipur (C.G.)

2. Secretary
Department of Revenue,
D.K.S. Bhawan Raipur (C.G.)

3. The Collector, Sarguja,
District Sarguja (C.G.)

4. Additional Collector
District –Sarguja (C.G.)

5. Shri Taman Singh Sonwani
Additional Collector
District –Sarguja (C.G.)

OATH COMMISSIONER (S.R. Kaushik) PLACE CR TAHSIL AREA

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15/2/07

INCHARGE
Office of the Government Pleader
State Civil Court
BILASPUR

(7)

(4)

6. Vijay Kumar Agrawal

7. Ajay Kumar Agrawal

8. Sanjay Kumar Agrawal

9. Abhay Kumar Agrawal

10. Krishna Kumar Agrawal

No.6 to 10 all son of late Tarachand Agrawal, resident of Gaddipara, Ambikapur, District Sarguja (C.G.)

11. Anil Kumar Agrawal

12. Sunil Kumar Agrawal

No.11 & 12 both son of Shri Bajrang Lal Agrawal, resident of Ambedkar Chowk, Ambikapur, District Sarguja (C.G.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

(108)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No. 1100 of 2007

Petitioner — Kumari Nirusha Agrawal

Versus

Respondents — State of Chhattisgarh and others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Present: Mr. Raghavendra Pradhan, Advocate for the petitioner.
Mr. Utkarsh Verma, Deputy Government Advocate for the State/respondents No. 1 to 4.
Mr. Manoj Paranjpe, Advocate for the Caveator.

ORDER

(Passed on 27th Day of February, 2007)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. By this petition, the petitioner seeks for quashing of the entire proceedings along with the order dated 8-2-2007 (Annexure P/1).

2. The facts in nutshell are that one Mr. Taman Singh Sonwani, Additional Collector, Sarguja exercising of his power under Section 44 of the Chhattisgarh Land Revenue Code, 1959 (for short "the Code"), while hearing the revision under Section 50 of the Code, dismissed the preliminary objection of the petitioner that the Court of the Additional Collector, Sarguja does not have jurisdiction to decide the revision filed under Section 50 of the Code, as the same has not been conferred on him.

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3. Learned counsel appearing for the petitioner submits that the Additional Collector, even if, it is presumed that he has jurisdiction ought to have decided the preliminary objection of the jurisdiction of the Court before proceeding for final hearing and disposal of the case.

4. Learned counsel appearing for the petitioner has made certain other allegations that the order dated 26/27/12/2006 whereunder, Mr. Taman Singh Sonwani, Additional Collector, Sarguja was conferred the power under Section 44 of the Code was obtained by manipulation of the document, subsequently vide order dated 26/27/12/2006 (Annexure A-1), is not relevant for the purpose of consideration of this case.

5. On reading of the documents, there is no indication of any manipulation, however, without expressing any opinion on the contention of the learned counsel. It is found that Mr. Taman Singh Sonwani, Additional Collector, Sarguja vide order dated 26/27/12/2006 (Annexure A-1) has been conferred with the power to decide revision under Section 44 of the Code.

6. The second contention of the petitioner is to decide preliminary objection before hearing the matter on merits, seems to be justified.

7. It is well settled that if a party raises objection about jurisdiction, the Court/Tribunal without deciding the preliminary objection with

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regard to jurisdiction of the Court/Tribunal, should not proceed with the final hearing for disposal of the matter.

8. The order dated 8-2-2007 (Annexure P/1) rejecting the objection of the petitioner with regard to the jurisdiction of the Additional Collector is accordingly quashed and the petition is allowed to the above extent.

9. The respondent No. 5 is accordingly directed to decide the preliminary objection of the petitioner first before proceeding for final hearing and disposal of the pending revision before him.

Consequently, M.(W.)P. No. 711/2007, an application for grant of interim relief stands disposed of.

Sd/-
Satish K. Agnihotri
Judge

Subhash